



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2013-0193; FRL-9930-41-Region 5]

**Approval of Air Quality Implementation Plans; Indiana; Lead Rule
Revisions**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a request submitted on March 14, 2013, and supplemented on November 17, 2014, by the Indiana Department of Environmental Management (IDEM) to revise the state implementation plan (SIP) for lead. The submittal updates Indiana's lead rule at Title 326 of the Indiana Administrative Code (IAC), Article 15. It also amends 326 IAC Article 20, to incorporate some of the provisions of EPA's National Emission Standard for Hazardous Air Pollutants (NESHAP) for secondary lead smelters. IDEM made the revisions to increase the stringency and clarity of Indiana's lead SIP rules.

DATES: This direct final rule will be effective **[insert date 60 days after date of publication in the Federal Register]**, unless

EPA receives adverse comments by **[insert date 30 days after date of publication in the Federal Register]**. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the Federal Register informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No.

EPA-R05-OAR-2013-0193, by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. Email: blakley.pamela@epa.gov
3. Fax: (312) 692-2450.
4. Mail: Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. Hand Delivery: Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No.

EPA-R05-OAR-2013-0193. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of

encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Charles Hatten, Environmental Engineer, (312) 886-6031 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Charles Hatten, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312)886-6031, hatten.charles@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. Background: Lead SIP and NESHAP Rules
- II. Discussion of State Submittal
- III. What action is EPA taking?
- IV. Incorporation by reference.
- IV. Statutory and Executive Order Reviews.

I. Background: Lead SIP and NESHAP

Indiana's SIP rules for lead are contained in two separate parts of the State's regulations. The first is Article 15, which EPA approved on August 17, 1989 (See 54 FR 33894). This provision addresses lead-bearing emissions from processes and fugitive dust from several facilities in Indiana.

The second regulatory provision is 326 IAC 20-13, which EPA approved on January 15, 2008 (77 FR 2248). This section contains a partial incorporation by reference of EPA's June 13, 1997, NESHAP for secondary lead smelting at 40 CFR part 63, subpart X (62 FR 32209). This includes: 1) 326 IAC 20-13-1(c) [incorporation by reference of 40 CFR part 63, subpart X, NESHAP (June 13, 1997; 62 FR 32209), with exceptions]; 2) 326 IAC 20-13-2(a) [source-specific lead emission limits and filter requirements for secondary lead smelter, Quemetco Incorporated (Quemetco)]; and 3) 326 IAC 20-13-6 [compliance testing requirements].

On January 5, 2012 (77 FR 556), EPA published amendments to the NESHAP for secondary lead smelting. The final rule revised the standards for secondary lead smelters based on the residual risk and technology reviews required under section 112(f) of the Clean Air Act (CAA), 42 U.S.C. 7412(f). In addition to revising the emission limits for lead compounds, the amendments to the NESHAP included: revisions to standards for fugitive emissions; addition of total hydrocarbon, dioxin, and furans emission limits for reverberatory and electric arc furnaces; modification and addition of testing and monitoring, recordkeeping and reporting requirements.

On March 14, 2013, and supplemented on November 17, 2014, IDEM submitted a request to revise the SIP to update its lead rule at 326 IAC 15. IDEM published several newspaper notices informing the public of the revisions to 326 IAC 15 and 326 IAC 20. A public hearing on these revisions was held on November 7, 2012. There were no comments received.¹

II. Discussion of State Submittal

Below is a discussion of Indiana's rules, including an identification of any significant changes from the previously approved SIP lead rules.

¹ It should be noted that IDEM's March 14, 2013 submission contained a Final Attainment Demonstration and technical Support Document for the Muncie, Delaware County, Indiana Lead Nonattainment Area. Indiana withdrew that portion of the submission on November 17, 2014.

Rule 326 IAC 15, Lead

IDEM made several administrative revisions to Article 15 to clarify the language in the rule. In section 2 of this rule, IDEM removed obsolete rule language for sources no longer in operation.

In section 3 of this rule, "Control of fugitive lead dust," IDEM made minor revisions by removing unnecessary language. For instance, the language in this section of the rule instructs sources listed section 2 to submit their fugitive dust control program to "the department of environmental management, office of air management." IDEM deleted the words "of environmental management, office of air management" in the revised rule language to simply direct the sources to submit its fugitive dust control programs to "the department."

In section 4 of this rule, "Compliance," IDEM made a revision to correct the citation for the appropriate source sampling procedures. Previously, the SIP the source sampling procedures were in 326 IAC 3-2. IDEM has relocated these to 326 IAC 3-6.

EPA finds these administrative changes approvable in Indiana's SIP.

Rule 326 IAC 20, Secondary Lead Smelting

Consistent with amendments to the NESHAP, Indiana added 326 IAC 20-13.1, which incorporates portions of this rule. More specifically, it contains standards for process and fugitive sources at secondary lead smelters, test methods, fugitive dust control, standard operating procedures for baghouses, and monitoring and recordkeeping requirements, which are covered by other portions of 326 IAC 20-13. When IDEM adopted rule 326 IAC 20-13.1, it did not include any exclusions to the rule that would exempt secondary lead smelters from complying with any operating and testing requirements consistent with the NESHAP. Thus, the secondary lead smelter rule at 326 IAC 20-13.1 provides clarity to the applicability, operating, and testing requirements for secondary lead smelters.

Second, the revisions to the NESHAP revised the lead emission limits that apply to process and process fugitive, and stacks venting fugitive dust emissions. The lead emission limit from process and process fugitive sources was revised from 2.0 milligrams of lead/dry standard cubic meter (mg/dscm) to 1.0 mg/dscm. The lead emission limit for stacks venting fugitive dust emissions was revised from 2.0 mg/dscm to 0.5 mg/dscm.

In the current SIP, EPA approved source-specific lead emission limits that apply to the secondary lead smelting facility owned and operated by Quemetco. Quemetco is located in

Indianapolis, Indiana. For Quemetco, the lead emission limits that apply to a specific process and process fugitive dust, and stacks venting fugitive dust emissions are already as stringent as the NESHAP. IDEM has relocated these limits to 326 IAC 20-13.1-4.

In addition to lead emission limits for Quemetco, IDEM included source-specific lead emission limits for the Muncie (Delaware County), Indiana secondary lead smelting facility owned and operated by Exide Technologies (Exide) at 326 IAC 20-13.1-3. The rule contains lead emission limits for specific processes and process fugitive dust lead emissions at Exide. These emission limits are at levels as stringent as the NESHAP.

When revising the NESHAP for secondary lead smelting, EPA established a facility-wide, flow weighted average, lead emissions limit from stacks of 0.20 mg/dscm. IDEM incorporated this emission limit into 326 IAC 20-13.1-5.

Indiana has requested that EPA approve all portions of 326 IAC 20-13.1 into the SIP, with the following exceptions:

A.) all provisions related to dioxins, furans, total hydrocarbons, in the following provisions:

- 1) 326 IAC 20-13.1-5(d); 2) 326 IAC 20-13.1-5(f); 3) 326 IAC 20-13.1-5(g); 4) 326 IAC 20-13.1-5(i); 5) 326 IAC 20-13.1-5(j); 6) 326 IAC 20-13.1-10(e); 7) 326

IAC 20-13.1-11(d); 8) 326 IAC 20-13.1-11(e); 9) 326
 IAC 20-13.1-12(b); 10) 326 IAC 20-13.1-12(c); 11) 326
 IAC 20-13.1-12(d); 12) 326 IAC 20-13.1-12(e); 13) 326
 IAC 20-13.1-14(e)(2); and 14) 326 IAC 20-13.1-
 14(e)(3), related to total hydrocarbon.

B.) certain "General Provisions" and notification
 provisions under the Federal NESHAP, identified in 326 IAC
 20-13.1-1(d); 326 IAC 20-13.1-13(a),²

C.) 326 IAC 20-13.1-15, concerning the affirmative defense
 to civil penalties for an exceedance of the emissions limit
 during malfunctions.³

IDEM decided that the changes to 326 IAC Article 20 required
 the removal of any duplicate or conflicting emission limits or
 other requirements that presently exist in 326 IAC 20-13 in the
 transition to the new requirements in 326 IAC 20-13.1, and thus,
 repealed 326 IAC 20-13.

EPA finds the lead emission limits for secondary lead
 smelters in 326 IAC 20-13.1 are more stringent than and will
 thus strengthen Indiana's current lead SIP. As such, they are
 approvable.

² These provisions remain federally enforceable by EPA.

³ EPA has issued a finding that certain SIP revisions relating to startup, shutdown and malfunction (SSM) in 36 states are substantially inadequate to meet the Act's requirements. Included in this "SIP call" are "affirmative defense" provisions for SSM events. 80 FR 33480 (June 12, 2015)

III. What action is EPA taking?

EPA is approving Indiana's March 14, 2013, SIP revision request, as supplemented on November 17, 2014, which addresses lead sources in the state. The submission consists of updates and clarifications to Indiana's lead SIP rule at 326 IAC Article 15. It also amends 326 IAC Article 20, to incorporate some of the provisions of EPA's NESHAP for secondary lead smelters at 326 IAC 20-13.1. EPA will take no action on the provision of this rule related to 1) dioxins, furans, and total hydrocarbons, 2) identified NESHAP requirements, and 3) the affirmative defense to civil penalties for an exceedance of the emissions limit during malfunctions. It should be noted that this action in no way affects the continued enforceability of the NESHAP at 40 CFR part 63, subpart X.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this Federal Register publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective **[insert date 60 days after date of publication in the Federal Register]** without further notice unless we receive relevant adverse written comments by **[insert**

date 30 days after date of publication in the Federal Register].

If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective **[insert date 60 days after date of publication in the Federal Register]**.

IV. Incorporation by reference.

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Indiana regulations described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and/or in hard copy at the appropriate EPA office (see the ADDRESSES section of this

preamble for more information).

V. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those

areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the

purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of this Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Emissions reporting, Incorporation by reference, Lead, Reporting and recordkeeping requirements.

Dated: July 2, 2015.

Susan Hedman,
Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Section 52.770, the table in paragraph (c) is amended by:

a. Revising the entries under "Article 15. Lead Rules".

b. Revising the entries under "Article 20. Hazardous Air Pollutants".

The revisions read as follows:

§ 52.770 Identification of plan.

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(c) * * *

EPA-APPROVED INDIANA REGULATIONS

Indiana Citation	Subject	Indiana Effective Date	EPA Approval Date	Notes
* * * * *				
Article 15. Lead Rules				
Rule 1. Lead Emission Limitations				
15-1-2	Source-specific provisions	3/1/2013	[insert date of publication in the Federal Register], [insert Federal Register citation]	
15-1-3	Control of fugitive lead dust	3/1/2013	[insert date of publication in the Federal Register], [insert Federal Register citation]	
15-1-4	Compliance	3/1/2013	[insert date of publication in the Federal Register],	

Indiana Citation	Subject	Indiana Effective Date	EPA Approval Date	Notes
			[insert Federal Register citation]	
* * * * *				
Article 20. Hazardous Air Pollutants				
Rule 10 Bulk Gasoline Distribution Facilities				
20-10-1	Applicability; incorporation by reference of federal standards	11/14/1999	5/31/2002, 67 FR 38006	
Rule 20-13.1 Secondary Lead Smelters				
20-13.1-1	Applicability	3/1/2013	[insert date of publication in the Federal Register], [insert Federal Register citation]	Sections (a)-(c), (e), and (f)
20-13.1-2	Definitions	3/1/2013	[insert date of publication in the Federal Register], [insert Federal Register citation]	
20-13.1-3	Emission limitations; lead standards for Exide Technologies, Incorporation	3/1/2013	[insert date of publication in the Federal Register], [insert Federal Register citation]	
20-13.1-4	Emission limitations; lead standards for Quemetco, Incorporated	3/1/2013	[insert date of publication in the Federal Register], [insert Federal Register citation]	
20-13.1-5	Emission limitations and operating provisions	3/1/2013	[insert date of publication in the Federal Register], [insert Federal Register citation]	Sections (a)-(c), (e), and (h)
20-13.1-6	Total enclosure requirements	3/1/2013	[insert date of publication in the Federal Register], [insert Federal Register citation]	
20-13.1-7	Total enclosure monitoring requirements	3/1/2013	[insert date of publication in the Federal Register], [insert Federal Register citation]	
20-13.1-8	Fugitive dust	3/1/2013	[insert date of	

Indiana Citation	Subject	Indiana Effective Date	EPA Approval Date	Notes
	source requirements		publication in the Federal Register], [insert Federal Register citation]	
20-13.1-9	Bag leak detection system requirements	3/1/2013	[insert date of publication in the Federal Register], [insert Federal Register citation]	
20-13.1-10	Other requirements	3/1/2013	[insert date of publication in the Federal Register], [insert Federal Register citation]	Sections (a)-(d), (f) and (g)
20-13.1-11	Compliance testing	3/1/2013	[insert date of publication in the Federal Register], [insert Federal Register citation]	Sections (a)-(c), and (f)
20-13.1-12	Compliance testing methods	3/1/2013	[insert date of publication in the Federal Register], [insert Federal Register citation]	Section (a)
20-13.1-13	Notification requirements	3/1/2013	[insert date of publication in the Federal Register], [insert Federal Register citation]	Sections (b)-(d)
20-13.1-14	Record keeping and reporting requirements	3/1/2013	[insert date of publication in the Federal Register], [insert Federal Register citation]	Sections (a)-(d), (e) (1), and (e) (4)-(e) (14)
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[FR Doc. 2015-17474 Filed: 7/16/2015 08:45 am; Publication Date: 7/17/2015]